

Panaji, 29th June, 2001 (Ashada 8, 1923)

SERIES II No. 13



OFFICIAL GAZETTE

GOVERNMENT OF GOA

SUPPLEMENT

GOVERNMENT OF GOA

Department of Labour

Order

No. CL/Pub - Awards/98/3073

The following Award dated 12-4-1999 in Reference No. IT/5/92 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour.

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/5/92

Workmen
Rep. by Gomantak
Mazdoor Sangh,
Ponda Goa.

— Workmen/Party I

V/s

M/s Fabril Gasosa,
Rep. by:

1. Mrs. Maureen P. F. de Sequeira.
2. Mr. Jack Savio Anil de Sequeira.
3. Miss Julia Maria Aisha de Sequeira.

4. Miss Lilia Ann Amita
de Sequeira.
Residents of Campal.

— Employer/Party II

Workmen represented by Adv. P. B. Devari.
Employer represented by Mrs. Amita de Sequeira.

Panaji, dated: 12-4-1999

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 17-12-1991 bearing No. 28/37/91-LAB referred the following dispute for adjudication by this Tribunal.

(1) "Whether the demands served on the management of M/s Fabril Gasosa, Borim, on behalf of their workmen by Gomantak Mazdoor Sangh, and shown below are legal and justified ?

(2) If so, to what relief the workmen are entitled ?"

DEMANDS

Demand No. 1: *Flat rise and Basic salary:*

It is demanded that each workman be given a flat rise of Rs. 150 per month over and above the basic salary. It is also demanded that a new set of increments be worked out at enhanced rates with retrospective effect from 1-7-88.

Demand No. 2: *Seniority—Increments:*

It is demanded that each workman be eligible to seniority-increments on the following basis:

- (a) Those who have completed 3 yrs.
.... One

- (b) Those who have completed 6 yrs
.... Two
- (c) Those who have completed 9 yrs
.... Three
- (d) Those who have completed 12 yrs
.... Four
- (e) Those who have completed 15 yrs
and above Five

The existing practice of honouring workmen who have completed 10 years of service ought to continue and those workmen who have completed 20 years of service should also be awarded with Two special increments with retrospective effect from 1-7-88.

Demand No. 3: Travelling Allowance:

It is demanded that each workman be paid a Travelling allowance of Rs. 5/- per day of attendance with retrospective effect from 1-7-88.

Demand No. 4: Washing Allowance:

It is demanded that each workman be paid a washing allowance of Rs. 25/- per month with retrospective effect from 1-7-88.

Demand No. 5: Shift Allowance:

It is demanded that those workmen who work on 2nd and 3rd shift be paid a sum of Rs. 4/- per shift working with retrospective effect from 1-7-88.

Demand No. 6: Leave Travel Allowance:

It is demanded that each workman be paid a Leave Travel Allowance of Rs. 1000/-once in two years.

Demand No. 7: Bonus and Ex-Gratia:

It is demanded that each workman be paid an Ex-gratia amount and bonus at the rate of 20% of the wages earned in each year.

Demand No. 8: Canteen:

It is demanded that wholesome food be supplied through the canteens, and canteen facility be extended to the workmen at Carambolim and Old Goa.

Demand No. 9: Drivers and Cleaners:

It is demanded that drivers and cleaners be supplied with Terricotton Uniforms and be paid overtime after

5-30 p. m. at the rate of double the ordinary wages, and that the Bhatta be increased by Rs. 12/- per day.

Demand No. 10: Leave Facilities:

It is demanded that the Leave facilities be as follows:

Privilege Leave— 30 days per annum with the facility to accommodate leave upto 180 days.

Casual Leave— 09 days per annum.

Sick Leave— 12 days per annum.

Holidays— 14 days per annum, to be mutually decided between the management and the workmen before December every year.

Demand No. 11: Fans:

It is demanded that two giant fans be set up in the bottling plant for the loaders and unloaders.

Demand No. 12: Rest-room Facilities:

It is demanded that fans be set up in the rest rooms, and double-decker cots be put up for the benefit of the workers.

Demand No. 13: Security:

It is demanded that the number/strength of the security personnel be increased and they be provided with furnished quarters.

Demand No. 14: Shoes and Umbrellas:

It is demanded that each workman be given an umbrella at least once in two years; and the workmen in the category of shippers, welders, security and those in the machine-shop should be issued shoes. This issue requires discussions.

Demand No. 15: Thrift-Funds:

This issue requires discussions.

Demand No. 16: Medical Benefit:

It is demanded that those workmen who have crossed the ESIC limit ought to be paid an amount of atleast Rs. 1000/- per year as medical benefits.

Demand No. 17: Promotion-Policy:

It is demanded that a promotion policy in respect of workmen in the Garage/Fabrication/Workshop should be mutually worked out by the management and workmen.

Demand No. 18: Lockers:

It is demanded that all the workmen be issued with lockers.

Demand No. 19: Production Section:

It is demanded that the manpower in the bottling plant/production section be increased from 5 to 7.

Demand No. 20: The demands shall be brought into force with retrospective effect from 1-7-1988.

2. On receipt of the reference a case was registered under No. IT/5/92 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The workmen-Party I (for short, "Union") filed statement of claim at Exb. 3. The Union stated that the demands which were raised against the party II-Employer (for short, "Employer") were not settled by the employer and therefore the Government made the present reference to this Tribunal for adjudication of the demands. The Union stated that the demands raised against the employer are legal and justified, as there was no revision in wages since the expiry of the settlement on 31-6-88. The Union prayed that the demands should be given effect from 1-7-88.

3. The employer filed written statement at Exb. 4. The employer stated that the union namely Gomantak Mazdoor Sangh does not represent the majority of the workmen of the employer. The employer denied that the management refused to negotiate or that the reference is legal and tenable. The employer stated that the financial capacity of the employer is not sound and therefore the employer is not in a position to suffer additional financial liability. The employer denied that the demands of the union raised on behalf of the workmen are legal and justified. The employer denied that the workmen are entitled to any relief. The Union thereafter filed rejoinder at Exb. 5.

4. On the pleadings of the parties issues were framed at Exb. 6 and thereafter the case was fixed for the evidence of the union. After the evidence of the union was partly recorded and the case was fixed for further evidence of the union on 29-1-98, the parties submitted that the dispute between them was amicably settled and they filed the terms of settlement dated 12-12-97 at Exb. 17. The parties also filed an application dated 29-1-98 at Exb. 16 praying that a consent award be passed in terms of the settlement dated 12-12-97. I have gone through the terms of the settlement and I am satisfied that the said terms are certainly in the interest of the workmen. I therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 12-12-97 Exb. 17.

ORDER

1. The Sangh and the individual workman agree that their dispute against the Management in respect of their Charter of Demands and in respect of the claims for the arrears of VDA upto 30-9-97 stand conclusively settled.

2. Scales

It is agreed that the scales of pay shall be as follows:

Grade I	240-20-340-25
Grade II	260-20-360-25-485-30
Grade III	300-25-425-30-575-35
Grade IV	350-30-500-35-675-40
Grade V	500-40-700-45-925-50

3. House Rent Allowance

It is agreed that HRA at 12% of basic pay drawn under the above scales shall continue to be paid to every confirmed workman. It is further agreed that this allowance shall not be paid to such employees as have been allotted accommodation by the employer.

4. Sundry Allowance:

Sundry Allowance shall continue to be paid at Rs. 52/- per month with deduction of Rs. 2 per day of unpaid absence.

5. Washing Allowance:

Washing Allowance shall continue to be paid to every workman at Rs. 15/- per month.

6. V. D. A.

It is agreed between the parties that from 1-10-97 the amount of Rs. 1806/- shall be the total of VDA payment and the said amount shall be converted and paid as FDA, and VDA shall be paid w.e.f. 1-1-98 at Rs. 2/- per point above 1700 points at AICPI (1969=100), and VDA shall be revised every 6 months on 1st Jan. & 1st July every year based on the average rise or fall in the index for the proceeding period from April to September and October to March respectively, subject to a ceiling of Rs. 100/- for every 6 monthly revision from 1-1-98, the total yearly payment being not more than Rs. 200/-.

7. It is agreed between the parties that the amount of Rs. 30,00,000/- shall be paid in instalments over the period of 5 years. The said amount shall be the total liability of the management with respect of the arrears of VDA, including the management's contribution to PF wherever including in the Recovery Certificates. This amount was agreed in the presence of the Hon. Chief Minister on 14-10-97. The amount of Rs. 1,73,000/- paid earlier by the

Management shall be deducted from the last instalment of amount due as spelt out in Annexure 'A'. Statutory deductions shall be made by the Management from the amounts paid to the workers. The Sangh with the Management will work out the actual amounts payable to the workmen. It is therefore agreed that all the claims in respect of VDA pending before all authorities and the reference IT/5/92 with respect to the charter of demands stand settled.

8. It is agreed that the workmen will not resort to any pressure tactics such as strike, sit-in strike, go slow, work to rule, demonstration, gherao, etc., during the operation of the settlement.

9. During the operative period of the settlement the parties shall ensure the complete industrial harmony and make all efforts to resolve all other disputes by means of direct negotiations or through Constitutional methods. The Management and Sangh shall abide by the code of discipline.

10. The Management and the Sangh explicitly agree that during the tenure of the settlement, no demand shall be raised on the Management involving financial liability.

11. The Management and Sangh agree to extend their full co-operation towards maintaining discipline, improve efficiency, quality and productivity and reduce absenteeism and wastage. The Sangh shall not interfere in or hinder discipline within the provisions of the law and existing practice and procedure.

12. It is agreed between the parties that this settlement shall be binding for a period of three years commencing from 1-10-97 to 30-9-2000 and will continue to remain in force thereafter until either of the parties terminate it in accordance with the provisions of the Industrial Disputes Act, 1947.

13. It is agreed between the parties that in view of the above terms all claims of the workmen in the Charter of Demands pending before the Industrial Tribunal stands settled and there shall not be any further demands for increased wages till the expiry of the Settlement.

14. *Transfer*

It is agreed that in event of transfer of an employee from one geographic location to a noncontiguous one by the employer, the employer so transferred shall receive a lumpsum transfer allowance equivalent to one month's pay. The said transfer allowance shall not be payable where the transfer is made at the request of the employee. No further allowance or remuneration shall be paid.

15. *Mobility:*

It is agreed between the parties that in the event of exigencies of work, with a view to avoid surpluses, the workmen shall carry out jobs in any Department in the Organisation, irrespective of the nature of the job, but commensurate with the grade.

16. *Lunch Allowance*

Rs. 15/- per day as outdoor reimbursement upto 30-9-98.
Rs. 20/- per day as outdoor reimbursement upto 30-9-99 and
Rs. 25/- per day as outdoor reimbursement w. e. f. 1-10-99.

17. *Thrift Fund*

It is agreed between the parties that the deduction towards the Thrift Fund shall stand discontinued w. e. f. 9-12-97, and the amount in the Thrift Fund shall be distributed among the workmen on or before 31-3-98.

18. *Leave Facility:*

It has been agreed that to the entitlement of Privelege Leave earned by the workmen under the Factories Act/Shops & Establishment Act, the following additional incentive Leave shall continue to be added for attendance during a calendar year, commencing 1-1-98, as follows:

for the absence in the year of:	
Between 8 and 10 days	2 days
Between 7 and 5 days	4 days
Between 4 and 2 days	8 days
Between 1 and nil days	10 days

Allow to accumulate Privelege+incentive leave upto a maximum of 75 days. Not more than one person in a particular department, on a particular shift to be on leave at any given time.

19. *Training*

It is agreed that all operators and assistant operators shall be trained, as and when time permits, in the working of a Boiler and the Generator, in the understanding that their help may be required in an emergency situation.

20. *Shifts*

In the event of the Management reverting to shift system, the workmen agree to work in the said shifts. However, reasonable notice shall be given to the workmen about reversion to the shifts, and the shift schedule shall be displayed in advance. The workmen shall be paid Rs. 20/- as shift allowance for the third shift only.

21. In the event of closure and retrenchment, prior to the total payment of arrears under Clause 7, the retrenchment dues shall be worked out on the basis of VDA calculated based on settlement dated 9-12-1986 upto 30-9-97, and thereafter as per this settlement.

22. It is agreed between the parties that the cases of retrenchment and dismissal presently pending before the Industrial Tribunal, shall be discussed within 8 days.

23. Both parties shall submit compliance report to the office of the Commissioner of Labour and Employment, Panaji-Goa.

No order as to costs. Inform the Government accordingly.

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order,

No. CL/Pub - Awards/98/3074

The following Award dated 30-3-1999 in Reference No. IT/4/89 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour.

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/4/89

Workmen
Rep. by Goa Trade &
Commercial Workers Union,
Panaji - Goa.

— Workmen/Party I

V/s

M/s Mc Dowell &
Company Ltd.,
Bethora, Ponda-Goa

— Employer/Party II

Workmen/Party I represented by Shri Subhas Naik.
Employer/Party II represented by Adv. Shri G. K. Sardessai.

Panaji, dated.: 30-3-1999

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order bearing No. 28/53/88-ILD dated 9th Jan., '89 referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of M/s Mc Dowell and Company Limited in terminating the services of Shri John S. Mendes and Shri Sonu L. Gaonkar with effect from 24-5-1986 is legal and justified ?

If not, what relief the workmen are entitled to ?"

2. On receipt of the reference a case was registered under No. IT/4/89 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. Before the statement of claim could be filed on behalf of the workmen, Adv. Shri Sardessai, the learned Advocate for the Employer/Party II (for short, "Employer") submitted that with reference to the workman Shri John Mendes the dispute was already settled and filed a memorandum of settlement dated 20-3-89. Adv. Shri R. Mangueshkar who was representing the workmen at that time admitted that the dispute pertaining to Shri John Mendes was settled and both the parties prayed that an award be passed in terms of the said settlement with reference to workman Shri Mendes. Accordingly, this Tribunal passed award dated 1-4-89 with reference to workman Shri Mendes in terms of the settlement dated 20-3-89. Since the dispute with reference to the workman Shri Sonu L. Gaonkar was not settled the case was proceeded further with reference to him. The workman-Shri S. Gaonkar (for short, "workman") filed his statement of claim at Exb. 4. The workman stated that he was employed with the employer as a worker since 29-8-79 and his services were confirmed in Grade I w.e.f. 1-10-81. He stated that on 17-9-85 after he had left for lunch outside the factory premises he did not report for work after lunch as he had availed leave for the said half day. That on 18-9-85 was a holiday and that on 19th, 20th and 21st Sept., 1985 he did not report for work as he had applied for leave on account of Ganesh festival. That on 23-9-85 when he reported for work he received a suspension order dated 23-9-85 suspending him with immediate effect on the ground that it was reported that on 17-9-85 at about 12-35 p.m. he knowingly helped Shri John Mendes in pilfering the Number I whisky 180 ML bottle and after taking the same from Shri Mendes he ran away from the place. That he denied the allegations made against him in his

reply dated 29-9-85. That on 26-9-85 he was issued a charge sheet and thereafter enquiry was held into the said charge sheet. The workman stated that the enquiry which was held against him was not fair and proper and also the findings of the Inquiry Officer were perverse as there was no evidence to prove misconduct against him. The workman contended that termination of his service is illegal and unjustified and therefore he is entitled to reinstatement in service with full back wages and other consequential benefits.

3. The employer filed written statement at Exb. 5. The employer stated that the workman knowingly helped Shri John Mendes in pilfering a nip (180 ml) Number I Mc Dowell's Whisky bottle and on receiving the said bottle from Shri Mendes he ran away with the nip bottle from the main gate of the factory. The employer stated that thereafter a charge sheet dated 26-9-85 was issued to the workman and subsequently an enquiry was conducted by the Inquiry Officer Shri U. Raiker. The employer stated that the employer was conducted in a fair and proper manner and in accordance with the principles of natural justice. The employer stated that on completion of the enquiry Officer submitted his findings holding the workman guilty of the charges levelled against him. The employer stated that on receipt of the findings the workman was issued a show cause notice on 22-4-86 and on receipt of the explanation from the workman and finding that the explanation was not satisfactory, after considering the past record of the workman, the employer dismissed the workman from service by letter dated 24-5-86. The employer stated that the termination of service of the workman is legal and justified and he workman is not entitled to any relief. The workman thereafter filed rejoinder at Exb. 7.

4. On the pleadings of the parties, issues were framed and thereafter the evidence of the workman was recorded. When the case was fixed for the evidence of the employer, on 23-3-99 the parties appeared along with their representative and submitted that the dispute between the workman Shri Sonu Gaonkar and the employer was amicably settled and filed the terms of settlement dated 15-3-99. They also filed an application dated 23rd March 1999 praying that consent award be passed in terms of the said settlement. I have gone through the terms of the settlement and I am satisfied that the said terms are certainly in the interest of the workman Shri Sonu L. Gaonkar. I, therefor accept the submissions made by the parties and pass the consent award in terms of the settlement dated 15-3-99—Exb. 17 pertaining to the workman Shri Sonu L. Gaonkar.

ORDER

- It is agreed between the parties that the workman, Shri Sonu L. Gaonkar, shall be paid the amount specified in Annexure {A} in full and final

settlement of all his claims in respect of IT/4/89.
2. The parties pray that the Hon'ble Tribunal pass an Award in terms of the above settlement.

ANNEXURE 'A'

Ex Gratia — Rs. 5,000.00

No order as to costs. Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub - Awards/98/3075

The following Award dated 24-5-1999 in Reference No. IT/1/86 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary, Labour.

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/1/86

Workmen

Rep. by Goa Trade &
Commercial Workers Union,
Panaji - Goa.

— Workmen/Party I

V/s

M/s Caculo Nets Pvt. Ltd.,
Shanta Bldg.,
Ground Floor,
St. Inez, Panaji-Goa

— Employer/Party II

Workmen/Party I represented by Adv. Subhas Naik.
Employer/Party II represented by Adv. P. J. Kamat.

Panaji, dated: 24-5-99

AWARD

In exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes

Act, 1947 (14 of 1947) the Lieutenant Governor of Goa Daman and Diu by order dated 3-1-86 bearing No. 28/46/85 ILD referred the following dispute for adjudication of this Tribunal.

"Whether the action of the management, M/s Caculo Nets Private Limited, St. Inez, Panaji-Goa, in refusing to concede the Demands as listed in the Schedule annexed hereto, of the workmen represented through Goa Trade and Commercial Workers' Union is legal and justified.

SCHEDULE OF DEMANDS

Demand No. I: Grades & Pay Scales: It is demanded that the following grades & Pay scales be made applicable to the workmen.

Grade	Designation	Pay scales
I	Peon, Helper, Sweeper, Watchman.	300-20-400-25-525- 5 5
		30-675-40-875. 5 5
II	Jr. Clerk, Junior Operator, Jr. Mechanic.	400-25-525-30-675- 5 5
		-35-850-45-1075 5 5
III	Typist, Clerk, A/c Clerk, Salesman, A/c Asstt-Cum-Sales, Admn. Asstt., Recep- tionist-cum-Typist, Plumber, Operator, Welder, Welder- Cum-Fitter, Asstt. Mechanic Driver.	500-30-650-35-825-40- 5 5 5
VI	Sr. Salesman, Supervisor, Sr. Operator, Refrigeration Mech., Tractor Mechanic, Sr. Mechanic, Mines Mate, Sr. Welder.	600-35-775-40-975- 5 5
VII	Sales Executive, Branch-Sales-Manager Accountant, Head Mechanic, Senior Refrigeration Mech.	700-40-900-50-1150- 5 5

Demand No. II: Flat Rise:

It is demanded that each workperson in the above six concerns should be given a FLAT Rise of Rs. 200/- per month over and above the Existing Consolidated

monthly salary, which total should be fitted in the respective pay scales and grades in Demand No. I.

Demand No. III: Fitment:

After adding the flat rise of Rs. 200/- to the Consolidated Salary as existing on 1st June, 1985: the total of Flat Rise & the Existing Consolidated Salary should be fitted in the Pay-scales and Grades as above. Those below the pay scales shall be fitted in the Minimum first stage in the Scale-pay & those in between the stages in the pay scale, shall be fitted at the next higher stage in the scale-pay. And thereafter.

Demand No. IV: Seniority Increments:

It is demanded that after Fitment, each workman shall be eligible to seniority increments on the following basis, depending on the number of years of service:

Those who have completed one year of service one increment.

Those who have completed four years of service two increments,

Those who have completed eight years of service three increments.

Those with 12 years of service four increments.

Those with 16 years of service five increments

Those with 20 years of service six increments.

Demand No. V: Fixed Dearness Allowance:

It is demanded that each of the workperson in M/s Caculo Nets Pvt. Ltd., shall be paid a F. D. @ 20% on the total Basic salary W. E. f. 1st July, 1985.

Demand No. VI: Variable Dearness Allowance:

It is demanded that each workperson in M/s Caculo Nets Pvt. Ltd. shall be paid VDA on the All India Consumer Price Index 500 (1960=10) point 500 at the rate of 2/- (rupees) shall be paid to each workperson, per month beginning from July, 1985.

Demand no. VII: House Rent Allowance:

It is demanded that each workperson in M/s Caculo Nets

Private Limited shall be paid H. R. A. at the rate of 10% on the basic monthly salary w. e. f. 1st July, 1985.

Demand No. VIII: Travelling Allowance:

It is demanded that each workperson in M/s Caculo Nets Pvt. Ltd., Panaji shall be paid a Travelling Allowance at the rate of Rs. 02/- per day w. e. f. 1-7-1985.

Demand No. IX: Washing Allowance:

It is demanded that each workperson in M/s Caculo Nets Pvt. Ltd. Panaji shall be paid a Washing Allowance at the rate of Rs. 25/- per month, w. e. f. 1-7-1985.

Demand No. X: Leave Travel Allowance:

It is demanded that each workperson in M/s Caculo Nets Pvt. Ltd., Panaji shall be paid LTA at the rate of Rs. 300/- per year.

Demand No. XI: Bhatta:

It is demanded that those workpersons who are required to go out on work such as Drivers, and other mobile staff, shall be paid Bhatta on the following rates;

a) Inside GoaRs. 10/- per day.

b) Outside GoaRs. 30/- per day with the benefit of double O. T. for work rendered beyond normal 8 hours; & Lodging Expenditure if sent outside Goa or in some special circumstances of cases.

Demand No. XII: Night Shift Allowance:

It is demanded that those workpersons who are required to work in shifts shall be paid shift allowances for the following basis:

IInd shiftRs. 3/-

IIIrd shiftRs. 5/- Plus milk or coffee.

Demand No. XIII: Festival Advance:

It is demanded that each work person shall be paid one full salary as festival advance; to be deducted in 10 equal monthly instalments.

Demand No. XIV: Loan Facility:

It is demanded that each work person should be eligible during the subsistence of this Settlement, for a one time loan of Rs. 4000/- without being charged any interest, and to be deducted in 40 easy instalments.

Demand No. XVII: Change of Timing:

It is demanded that the workers in M/s Caculo Nets Pvt. Ltd. excepting those with shifts working, should be enjoined upon to work under the following timings: 09-00 hrs. to 17-00 hrs with an hour lunch break; And introduce a five day week with effect from 1st August, 1985.

Demand No. XVIII: Leave Facilities:

It is demanded that each work person in the management of M/s Caculo Nets Pvt. Ltd. shall be eligible to the following leave facilities;

Privilege Leave.... 30 days per annum with the benefit to accumulate up to 90 days;

Casual Leave 7 days with no accumulation.

Sick Leave 10 days with the benefit to accumulate upto 30 days;

Holidays 14 days per annum, which should be paid for.

Demand No. XIX: Uniforms, Safety Shoes, Rain Coats, Rain Shoes, Etc.

It is demanded that each workperson should be provided with three pairs of Uniforms (once a year) Rain coats, rain shoes, (Once in two years) and one pair safety shoes once a year w. e. f. 1-8-1985.

Demand No. XXII: Allotment of Work as per Designation:

It is demanded that work should be allotted to the work persons as per their designations & grade, and harassment that is presently being meted out to the workpersons should end.

Demand No. XXIII: Discount & Credit on Goods Bought from the Caculos:

It is demanded that existing practice of giving discount and credit on goods bought by the workmen from the House of Caculos' should continue.

Demand No. XXIV: Rest Rooms & Lockers:

It is demanded that each workperson should be allotted a locker to store way safely his/her personal belongings & there should be properly maintained rest rooms and lunch rooms in all the establishments.

If not, to what relief the workmen are entitled to?"

2. On receipt of the reference a case was registered under No. IT/186 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workmen/Party I (for short "Union") filed its statement of claim at Exb. 3. The facts of the case in brief as pleaded by the union are that the office premises of the employer/ party II (For short "Employer") is situated at Shanta Building, St. Inez, Panaji-Goa and the factory is situated at Karaswada Industrial Estate, Mapusa-Goa. That the employer deals in manufacture of fishing nets of two types i. e. pursein nets and Gill nets having very high demand in the markets. That the employer also deals in the sale of nylon ropes used in the fishing Industry and make huge profits from the sale of said products. That the employer owns, runs and manages 5 other sister concerns namely M/s Metal Supply and Grill Stores, M/s M. S.B. Caculo and Associates, M/s M. S. B. Caculo Pvt. Ltd. (Escorts division) and M/s Manoj Electronics. That the workers of M/s Caculo Nets Pvt. Ltd. as well as that of above 5 sister concerns in the General body held on 2-6-85 unanimously decided to become the members of the present union namely Goa Trade and Commercial Workers Union and accordingly the said 5 sister concerns and the employer M/s Caculo-Nets Pvt. Ltd. were informed about this fact. That the employer was also informed that a committee was elected among the workers and the names of the office bearers of the said committee were also informed to the employer. That thereafter the president of the union by letter dated 30-6-85 served a charter of demands on behalf of the workmen on the employer. That on receipt of the letter from the president of the union the employer started harassing and victimising the workmen and also starting pressurising them to resign from the union and further the employer did not even reply to the said letter of the union. That since the demands of the union stood unresolved the workers decided to go on strike and accordingly the strike notice was served on the employer intimating that the workmen would strike work on 8-7-85. That Asst.

Labour Commissioner, Panaji invited the union as well as the employer to attend the discussion on 5-9-85 in the issues of charter of demands and accordingly the union attended the discussion fixed on 5-9-85 but none attended on behalf of the employer. The Asst. Labour Commissioner produced a letter received from the employer wherein it was stated that the question of discussing over the charter of demands did not arise as according to the employer the wages scales were fair, proper and reasonable. That thereafter in the conciliation proceedings held on 12-8-85 the employer expressed its willingness to offer a reasonable amount towards Interim Relief pending final settlement on the said charter of demands, but vide letter dated 5-9-85 the employer informed that the wages paid to the workmen were fair and proper and therefore the question of discussing over the charter of demands did not arise and as such the employer denied to pay interim relief. The union contented that the employer is financially very sound and has the capacity to pay higher salaries to the workmen and grant the demands made by the workmen. The union contented that the employer has neither revised the salaries of the workmen nor has paid the variable dearness allowance inspite of the fact that the prices have been rising and the cost of living in Goa is very high. The union therefore claimed that the demands raised by them are fair just and reasonable.

3. The employer filed written statement at Exb. 4. The employer stated that it is an independent Pvt. Ltd. company and it has no connection with the other companies referred to by the union in the statement of claim. The employer stated that it started manufacturing operation in August 1980 and the manufacturing was at an infancy stage and continued to suffer losses till the year 1983. The employer stated that in the accounting year 1983-84 a marginal profit was shown in the profit and loss account but the accumulated losses continued to mount. The employer denied that it used to make or makes huge profits as alleged by the union. The employer admitted that a letter dated 7-7-85 was received from the union stating that the workmen would go on strike from 8-7-85. The employer also admitted that a letter dated 25-8-85 was received from Asst. Labour Commissioner asking the parties to attend the discussions. The employer stated that since the workmen were not represented by the union namely Goa Trade Commercial Union and also since the wage scales were fair, proper and reasonable the discussion on charter of demands were not called for. The employer denied that they had at any time agreed to grant interim relief to the workmen or that settlement on the demands raised by the union would be arrived at. The employer stated that they have revised the wages of the workmen periodically and all the facts including the necessity to travel was considered by them. The employer stated that whenever the wages were increased, the comparable wage structure in Goa was considered. The employer denied that they have the capacity to pay higher salaries to the workmen and grant the demands raised

by the union. The employer stated that the workmen are not entitled to any relief as claimed by them and the demands raised by the union on behalf of the workmen are not just and legal. The union thereafter filed rejoinder at Exb. 5.

4. On the pleading of the parties following issues were framed at Exb. 6.

1. Do the workmen Party No. I, prove that their wages have been almost stagnant during their service time?
2. Do they further prove that their demands are reasonable and fair compared to what similar establishment pay to their workers in this Territory and elsewhere?
3. Do the workmen-party I prove that the financial position of party No. II is sound and that they have been making huge profits, but have not kept proper accounts deliberately to show lesser profits as alleged?
4. If so whether the following demands as listed in the schedule are just and legal taking into consideration overall activities of and financial position and assets of party II as claimed by the union?
5. Whether Employer/Party I proves that they do not have capacity to pay for the increased demands and that their wage structure is higher and on a better level, compared to the wage structure of similar concerns?
6. If so, whether the action of the management in refusing to concede the demands as listed in the Schedule is just and legal?
7. If the answer on the above issue is in the negative, to what relief by way of revision of pay scales and grant of other demands are the workmen entitled to?
5. My findings on the issues are as follows.

Issue No. 1:	In the negative
Issue No. 2:	In the negative
Issue No. 3:	In the negative
Issue No. 4:	In the negative
Issue No. 5:	In the affirmative
Issue No. 6:	In the affirmative
Issue No. 7:	Workmen are not entitled to any relief.

REASONS

6. Issue nos: 1 to 4: All these issues are taken together as they are inter-related and the burden was on the union to prove the said issues. In support of its

case the Union examined only one witness namely Shri Suresh Anant Bhonsle. However after his examination-in-chief was recorded on 23rd August 1994, his cross-examination was adjourned. Thereafter the case was adjourned several times mostly at the request of the union and consequently the witness Shri Suresh Bhonsle remained to be cross-examined. On 31-10-96 Shri Subhash Naik representing the union submitted that he was closing the evidence of the union and hence the evidence of the union was closed and the case was adjourned and fixed for employer's evidence, which was subsequently recorded. Though one witness namely Shri Suresh Bhonsle was examined by the union, his entire evidence is liable to be discarded as he was not produced by the union for cross-examination. Therefore for all purposes there is no evidence from the union in support of the demands raised against the employer. The burden was on the union to prove the issue nos. 1 to 4. However the union has failed to discharge this burden. In the present case the dispute as regards the demands were raised by the union on behalf of the workmen and the reference was made by the Government at the instance of the union. The contention of the union is that the demands are legal and justified. The Bombay High Court, Panaji Bench, in the case of V. N. S. Engg. Services V/s Industries Tribunal Goa, Daman and Diu and another reported in F. J. R. Vol. 71 at page 393 has held that he who approaches a court for relief should prove his case and if he does not lead evidence must fail, the High Court has held that the party who raises the industrial dispute is bound to prove the contention raised by him. I have already stated that in the present case the union has not led any evidence at all in support of the demands and contention raised by it. Therefore applying the law laid down by the Bombay High Court in the case of V. N. S. Engg. Services (Supra), in the absence of any evidence from the union the issue nos. 1 to 4 cannot be answered in favour of the union. I therefore hold that the union has failed to prove the issue nos. 1 to 4 and hence I answer the said issues in the negative.

7. Issue nos 5 and 6: It is a settled law that financial position of the employer is one of the factors which is to be taken into consideration for granting the demands of the workmen. In the present case the employer has taken the defence that its financial position is not sound so as to take the additional burden. The employer has examined one witness namely its chief Accountant Shri Devari. He has stated that the employer company is a separate entity registered under the Factory Act under No. GOA/275 and it manufactures fishing nets. He has produced the final accounts of the employer company for the years ending 31-3-84 to 31-3-87 at Exb. E-2 colly as well as for the years 1988 to 1997 at Exb. w-2 colly. The said final accounts show that the financial position of the employer is not good and the employer has been suffering losses almost every year. The witness Shri Devari has stated that the total accumulated loss of the employer till 31-3-87 was Rs. 1, 71,060.10 p. The

above said accumulated loss has been arrived at after considering the profit and loss of the employer for the above said period. The above contentions of the employer are supported by the final accounts of the employer produced at Exb. E-2 colly. The financial position of the employer for the period 1984 to 1987 is relevant because the demands were raised by the union by letter dated 30th June 1985 and the union had demanded that the demands should be granted with effect from 1st July 1985 as can be seen from the said letter dated 30th June 1985 Exb. w. 1. The employer's witness Shri Devvari has stated that as per the demands submitted by the union the additional burden on the employer came to Rs. 1,25,000/- approximately and also that the demand of other benefits like T. A., Bhatta, Interest free loan discount on purchases, uniforms etc. would have put additional financial burden on the employer. He has also stated that if the demands of the union were met the employer would have suffered further loss of Rs. 1,50,000/- per year and if 25% of the demands were met the loss would have been Rs. 65,000/- or so per year. He has further stated that after the failure of the conciliation proceedings the workers went on indefinite strike from 14-11-85 and he produced the strike notice dated 13-11-85 Exb. E-6 given by the union in this respect. He has stated that the union withdrew the strike by letter dated 25-5-86 Exb. E-10 but the workers again went on strike from 2-7-86. He has stated that during this period of strike there was no production and the loss suffered by the employer for that year was Rs. 1,43,154.02. The union has not been able to extract anything from the employer's witness in the cross-examination which would support the case of the union. In fact no challenge was thrown to the final accounts produced by the employer nor it was disputed that there was strike or that the employer suffered any loss as shown in the final accounts. The evidence on record shows that during the period 1984-1987 the financial position of the employer was not good and in fact the business of the employer was running in loss. I am therefore of the view that the employer has succeeded in proving that they did not have the financial capacity to meet the demands of the union and hence the employer was justified in refusing to concede the demands of the union. I therefore answer the issue nos. 5 and 6 in the affirmative.

8. Issue no. 7: While deciding the issue nos. 1 to 4 it has been held by me that the union has failed to prove that the demands raised against the employer are reasonable or that they are legal and justified. In the absence of evidence from the union the issue nos. 1 to 4 have been decided against the union. It has been also held by me that the employer was justified in refusing to concede the demands raised by the union. In the course of arguments Shri Subhash Naik representing the union had submitted that the workers should be paid atleast minimum wages. This submission on the part of Shri Subhash Naik is not correct. In the first place there is no pleading in the statement of claim filed by the union as regards payment of Minimum Wages to the workmen. Secondly no issue has been framed in this respect. There is also no evidence that minimum wages are not paid to the workers by the employer, or that the establishment of the employer is covered under the provisions of Minimum Wages Act. This being the case there is no substance in the submission of Shri Subhash Naik that the workers should be paid minimum wages. In the

circumstances I hold that the workmen are not entitled to any relief and answer the issue accordingly.

I therefore pass the following order.

ORDER

It is hereby held that the action of the management of M/s Caculo Nets Private Limited, St. Ines, Panaji-Goa in refusing to concede the demands of the workmen represented through Goa Trade and Commercial Workers' Union, listed in the schedule is legal and justified. It is hereby further held that the workmen are not entitled to any relief.

No order as to cost.

Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/3427

The following Award dated 30-4-1999 in Reference No. IT/66/95 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa:

R. S. Mardolker, Commissioner, Labour & Ex-Officio Joint Secretary (Labour).

Panaji, 12th July, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/66/95

Shri Garcia Esteves,
Agassaim, Ilhas-Goa.

— Workman/Party I

V/s

M/s. V. Paul De Souza,
Panaji - Goa.

— Employer/Party II

Party I represented by Adv. Suhas Naik.
Party II represented by Adv. Rohit Lobo.

Panaji, dated. : 30-4-99

Award

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 15-11-95 bearing No. 28/57/95-LAB referred the following dispute for adjudication by this Tribunal.

"Whether the action of the management of M/s. V. Paul de Souza, Panaji - Goa, in terminating the services of Shri Garcia Esteves, Technical Service Representative with effect from 5-10-94, is legal and justified?

If not, to what relief the workman is entitled"

2. On receipt of the reference a case was registered under No. IT/66/95 and registered A/D notice was issued to the parties. On receipt of the notice, the parties put in their appearance. The workman/Party I (for short, "Workman") filed his statement of claim at Exb. 5. The facts of the case in brief as pleaded by the workman are that the employer/Party II (for short, "Employer") is an authorised stockist for chemicals of Nalco Company and that the said chemicals are used for water treatment plants and for the manufacturing of things. That the employer is having its head office at Velho Building, at Panaji and branch offices at Mapusa and Margao. That the workman was employed with the employer as a Technical Service Representative from 7-6-93 and was posted at the Head Office from where he used to take instructions and carry out the jobs assigned to him from time to time. That his last drawn salary was Rs. 1800/- per month. That the employer did not issue any letter of appointment to him. That whenever he insisted for an appointment letter the employer refused to issue the same to him. That on 5-10-94 one of the partner of the employer terminated the services of the workman without assigning any reasons. That when the workman insisted on knowing the reason for termination of his services the employer stated that since no letter of appointment was given to him there was no need for issuing termination letter. That thereafter the workman raised a dispute before the Asst. Labour Commissioner, Panaji, on 10-10-94 as regards refusal of employment to him by the employer. That by letter dated 14-12-94 the employer stated that the workman is not an employee under Shops and Establishment Act, 1973 and as such no dispute could be raised. That in the said letter/reply the employer also contended that the workman was kept on retainership basis. That since the settlement could not be arrived at a failure was recorded on 16-6-95 and subsequently failure report was submitted to the Government. The workman contended that the employer did not comply with the provisions of Industrial Disputes Act, 1947 while terminating his services. That the employer did not give to him any notice nor paid his legal dues at the time of termination of his service. That the employer also violated the provisions of Sec. 25-F of the I. D. Act, 1947. The workman therefore contended that the termination of the service by the employer is illegal and unjustified and therefore he is entitled to reinstatement in service with full back wages.

2. The employer filed written statement at Ex. 5. By way of preliminary objection the employer stated that the workman is not a "Workman" as defined under Sec. 2(s) of the Industrial Disputes Act, 1947. The employer denied that the workman was a workman or employee of the employer during the period from 7-6-93 to 5-10-94. The employer stated that during the above said period the workman as a Technical Service Representative was carrying out assignments intermittently and occasionally on a retainership basis while offering technical support to the Technical Consultant/Advisor of the employer. The employer stated that the workman was not paid monthly salary but was paid retainership fees towards technical task carried out by him for the employer from time to time. The employer stated that no letter of appointment was issued to the workman because there did not exist employer employee relationship between workman and the employer. The employer denied that on 5-10-94 one of the partner of the employer terminated the service of the workman with immediate effect and without assigning any reasons as alleged by the workman. The employer stated that on 5-10-94 the partner of the employer informed the workman that the Technical Consultant/Advisor of the employer no longer require the supporting services of the workman as the same were unsatisfactory and not up to the mark. The employer denied that employment was refused to the workman as alleged by him. The employer stated that since there was no relationship of employer-employee between the employer and the workman the question of refusal of employment to the workman did not arise. The employer denied that there is no compliance of the provisions of Industrial Disputes Act, as alleged by the workman. The employer stated that since there was no relationship of employer-employee between the parties, the employer was not required under the law to comply with the provisions of the I. D. Act, 1947. The employer stated that since the workman was never in employment of the employer the claim of the workman that he should be reinstated in service with full back wages and/or continuity in service is without any merit and the same does not arise. The employer stated that the workman is not entitled to any relief as claimed by him and his claim is liable to be dismissed. The workman thereafter filed rejoinder at Exb. 7.

3. On the pleadings of the parties issues were framed at Exb. 8. and thereafter the evidence of the workman was recorded. After the workman led his evidence, the case was fixed for recording the evidence of the employer. The parties however submitted that the dispute between them is likely to be settled. On 5-4-99 when the case was fixed for hearing the parties appeared and submitted that the dispute between them was amicably settled. The parties filed the terms of settlement dated 5-4-99 at Exb. 12. The parties also filed an application dated 5-4-99 praying that consent

Award

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 15-11-95 bearing No. 28/57/95-LAB referred the following dispute for adjudication by this Tribunal.

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If not, to what relief the workman is entitled"

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2. The employer filed written statement at Ex. 5. By way of preliminary objection the employer stated that the workman is not a "Workman" as defined under Sec. 2(s) of the Industrial Disputes Act, 1947. The employer denied that the workman was a workman or employee of the employer during the period from 7-6-93 to 5-10-94. The employer stated that during the above said period the workman as a Technical Service Representative was carrying out assignments intermittently and occasionally on a retainership basis while offering technical support to the Technical Consultant/Advisor of the employer. The employer stated that the workman was not paid monthly salary but was paid retainership fees towards technical task carried out by him for the employer from time to time. The employer stated that no letter of appointment was issued to the workman because there did not exist employer employee relationship between workman and the employer. The employer denied that on 5-10-94 one of the partner of the employer terminated the service of the workman with immediate effect and without assigning any reasons as alleged by the workman. The employer stated that on 5-10-94 the partner of the employer informed the workman that the Technical Consultant/Advisor of the employer no longer require the supporting services of the workman as the same were unsatisfactory and not up to the mark. The employer denied that employment was refused to the workman as alleged by him. The employer stated that since there was no relationship of employer-employee between the employer and the workman the question of refusal of employment to the workman did not arise. The employer denied that there is no compliance of the provisions of Industrial Disputes Act, as alleged by the workman. The employer stated that since there was no relationship of employer-employee between the parties, the employer was not required under the law to comply with the provisions of the I. D. Act, 1947. The employer stated that since the workman was never in employment of the employer the claim of the workman that he should be reinstated in service with full back wages and/or continuity in service is without any merit and the same does not arise. The employer stated that the workman is not entitled to any relief as claimed by him and his claim is liable to be dismissed. The workman thereafter filed rejoinder at Exb. 7.

3. On the pleadings of the parties issues were framed at Exb. 8. and thereafter the evidence of the workman was recorded. After the workman led his evidence, the case was fixed for recording the evidence of the employer. The parties however submitted that the dispute between them is likely to be settled. On 5-4-99 when the case was fixed for hearing the parties appeared and submitted that the dispute between them was amicably settled. The parties filed the terms of settlement dated 5-4-99 at Exb. 12. The parties also filed an application dated 5-4-99 praying that consent

award be passed in terms of the said settlement. I have gone through the terms of the settlement dated 5-4-99. The said terms of the settlement are duly signed by the workman as well as the employer. I am satisfied that the terms of the settlement are certainly in the interest of the workman. I, therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 5-4-99 at Exh. 12.

ORDER

1. It is agreed between the parties that M/s V. Paul de Souza (C. & F.) shall pay, and Shri Garcia Esteves shall receive/accept an amount of Rs. 17,000/- (Rupees Seventeen Thousand only) in full and final settlement of his outstanding claims towards all his legal dues contained in the Reference No. IT/66/95.
2. The amount of Rs. 17,000/- shall be paid by cheque upon the signing of the present Settlement, and a copy of the Settlement shall also be lodged with the Office of Commissioner for Labour, Government of Goa, Panaji, Goa, for its registration.
3. It is agreed between the parties that in consideration of the payment of the said amount specified in clause 1 above and the discharge of a valid receipt by Shri Garcia Esteves, all the issues under dispute between both parties in the said Reference No. IT/66/95, shall stand fully and conclusively settled.
4. Both parties shall also file a joint application before the Industrial Tribunal, Panaji, along with a copy of the Settlement, for obtaining an Order Award, in terms thereof from the said Industrial Tribunal, Panaji - Goa, in Ref. No. IT/66/95.

No order as to costs. Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/3666

The following Award dated 18-6-99 in Reference No. IT/40/96 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Commissioner, Labour & Ex-Officio Joint Secretary (Labour).

Panaji, 12th July, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/40/96

Shri V. P. Haldankar &
6 others,
Rep. by the Lt. Secretary,
Sanjivani Sakhar Karkhana
Workers Union,
Panaji - Goa.

— Workmen/Part I

V/s

M/s Sanjivani Sakhar
Karkhana Ltd.,
Dayanand Nagar
Tiswadi - Goa.

— Employer/Party II

Party I - Represented by Adv. Shri R. Mangeshkar.
Party II - Represented by Adv. Shri G. K. Sardessai.

Panaji, dated: 18-6-1999

AWARD

In exercise of the powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Government of Goa by Order dated 26-6-96 bearing No. 28/26/96-LAB referred the following dispute for adjudication by this Tribunal.

"Whether the demand of S/Shri V. P. Haldankar and 6 other workmen of M/s Sanjivani Sakhar Karkhana Ltd., and represented by Sanjivani Sakhar Karkhana Workers Union, in the matter of gradation, fitment and fixation of pay scale is legal and justified ?

If not, to what relief the workmen are entitled ?"

2. On receipt of the reference a case was registered under No. IT/40/96 and registered A/D Notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workmen/Party I (for short, "Union") filed its statement of claim at Exh. 4. The facts of the case in brief as pleaded by the union are that the workman Shri V. P. Haldankar was employed with the Employer/Party II (for short, "employer") as a seasonal permanent worker on 21-1-74 and continued to work as such till 2-8-93 on basic salary of Rs. 1250/- p.m.. That by order dated 2-9-93 he was appointed as Security Watchman in semi-skilled category with a basic salary of Rs. 1250/- p.m., but subsequently reduced the salary to Rs. 950/- and also deducted the amount paid to him for the month of September, October and November 1993 from the salary of the month of December 1993. That the workman Shri Laxman Gawas was working as an Operator from 25-11-74 and continued to work as seasonal permanent worker till 31-11-93 on basic salary of Rs. 1250/- p.m. and thereafter was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p.m. which salary he disputed. That the workman Shri M. G. Mandrekar worked as Engg. helper from

13-12-74 and continued to work as seasonal permanent workmen till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri C. M. Kanolkar worked as Egg. Helper from 19-2-74 and continued to work as seasonal permanent watchman till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri B. A. Gosawi was working as an operator from 17-1-75 and continued to work as seasonal permanent worker till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri B. S. Gawade was working as an Operator from 17-1-75 and continued to work as seasonal permanent worker till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri S. K. Dessai worked as a Helper in Egg. Department from 22-11-74 and continued to work as a seasonal permanent workman till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That Shri Appasaheb Kamble, the General Secretary of the Union and Shri P. D. Parab, the Vice-President of the Union wrote a letter to the Managing Director of the Employer requesting to rectify the anomaly regarding the fixation of grade of the above workmen. That thereafter conciliation proceedings were held by the Dy. Labour Commissioner, Margao and since amicable settlement could not be arrived at, the conciliation resulted in failure. The Union contended that the action of the employer in the matter of gradation, fitment and fixation of pay scale is illegal and unjustified. The Union claimed that the above workmen are entitled to the basic scale in the grade protecting the last drawn basic wage and proper fitment thereafter. The Union also claimed that the workmen are entitled to differences in the wage with interest at the rate of 18% per annum.

3. The employer filed written statement at Exb. 6. The employer stated that the workmen were engaged on seasonal basis and were paid their full wages for the season i. e. approximately for 4 months and were paid a retaining allowance of 30% of their wages for off season of approx. 8 months. The employer stated that there were some permanent posts of watchman and accordingly the workmen were asked by letter dated 25-11-93 to attend the interview if they were interested in the said job and pay of watchmen. The employer stated that accordingly the workmen appear for interview and were issued appointment letter dated 30-11-93 wherein it was specifically mentioned that their basic pay would be Rs. 900/- in the scale of post of Watchman i.e. Rs. 900-15-1050-20-1250 and the workmen accepted the said appointment letter and the pay scale and reported for duty on 2-12-93. The employer stated as far as the workman Shri Haldankar is concerned he was recruited as watchman on 1-9-93 i. e. prior to the other six workmen and inadvertently he was paid basic salary of Rs. 1250/- for three months instead of Rs. 950/- and hence this mistake was

subsequently rectified. The employer denied that at the time of interview the workmen were told that the basic salary would be protected. The employer denied that there is any anomaly in fixation of grade or pay of the workmen. The employer denied that its action in the matter of fixation of grade, fitment or fixation of pay is illegal and unjustified. The employer denied that the workmen are entitled to any relief as claimed. The Union thereafter filed rejoinder at Exb. 7.

4. On the pleadings of the parties issues were framed and the case was fixed for the evidence of the unions. However, before evidence was recorded the parties submitted that they desire to settle the dispute amicably and hence at the request of the parties the case was fixed on 26-4-99 at 10.30 a. m. for filing terms of settlement. On that date the parties appeared and submitted that the dispute was amicably settled and they filed the terms of settlement dated 26-4-99 at Exb. 11. The parties also filed an application dated 26-4-99 at Exb. 12 praying that consent award be passed in terms of the said settlement. I have gone through the terms of settlement dated 26-4-99 at Exb. 11 which are duly signed by the parties and I am satisfied that the said terms are certainly in interest of the Union/Workmen. I, therefore accept submission made by the parties and pass the consent award in terms of the settlement dated 26-4-99 Exb. 11.

ORDER

1. It is agreed between the parties that the workmen will be fitted in proper gradation, with a proper fitment benefit and pay-scales as per Annexure I (enclosed to this settlement) with effect from 1st April 1999. From that date the workmen are made to work on permanent post. The new basic scale worked out to this watchman, the Union agreed not to claim any anomaly in any other matter in watchman's grade.
2. It is agreed between the parties that the management shall pay arrears to all the eight (8) watchmen from January, 1997 to 31-12-1998 at the rate of 60% out of the total arrears payable to the workman on or before 7th April, 1999. The Union hereby agrees not to claim the balance from the management. The management shall make necessary statutory deductions.
3. It is agreed between the parties that the management shall pay the salary to the watchmen from the month of January, 1999 as per new grade and scale.
4. It is agreed between the parties that in view of the above payments all these eight (8) watchmen shall have no dispute with the management of M/s Sanji Sahakari Sakhar Karkhana Ltd., as regards to the grade, fitment and scales.
5. Both the parties hereby agree to file a settlement before this Industrial Tribunal in case No. IT/40/96 and pray for a consent award to be passed in terms of the above settlement. No order as to costs is made. Inform the Government accordingly.

Sd/-
(AJIT J. AGNI)
Presiding Officer
Industrial Tribunal

Difference payable to eight watchmen

Sr. No.	Name	Year	Initial Basic	New Basic	Difference	Total month	Total difference	Last two years difference	Difference 60%	P. F. deduc- tion	Net payable
1.	Shri Vasudev P. Haldankar (Sept. to Dec. 1993)	1993	1250.00	900.00	350.00	4	1400.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
2.	Shri Laxman Rajaram Gawas	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
3.	Shri Manohar G. Mandrekar	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
4.	Shri Suresh K. Desai	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
5.	Shri Chandrakant M. Kanolkar	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
6.	Shri Bhaskar S. Gawade	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
7.	Shri Babalo A. Gosavi	1993	1250.00	900.00	350.00	1	350.00				
		1994	1270.00	915.00	355.00	12	4260.00				
		1995	1570.00	1210.00	360.00	12	4320.00				
		1996	1590.00	1230.00	360.00	12	4320.00				
		1997	1630.00	1270.00	360.00	12	4320.00				
		1998	1650.00	1290.00	360.00	12	4320.00	8640.00	5184.00	579.00	4605.00
										4053.00	30235.00

13-12-74 and continued to work as seasonal permanent workmen till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri C. M. Kanolkar worked as Egg. Helper from 19-2-74 and continued to work as seasonal permanent watchman till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri B. A. Gosawi was working as an operator from 17-1-75 and continued to work as seasonal permanent worker till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p.m. which salary he disputed. That the workman Shri B. S. Gawade was working as an Operator from 17-1-75 and continued to work as seasonal permanent worker till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p. m. which salary he disputed. That the workman Shri S. K. Dessai worked as a Helper in Egg. Department from 22-11-74 and continued to work as a seasonal permanent workman till 31-11-93 on basic salary of Rs. 1250/- p. m. That he was taken as a Security Watchman from 1-12-93 on basic salary of Rs. 915/- p.m. which salary he disputed. That Shri Appasaheb Kamble, the General Secretary of the Union and Shri P. D. Parab, the Vice-President of the Union wrote a letter to the Managing Director of the Employer requesting to rectify the anomaly regarding the fixation of grade of the above workmen. That thereafter conciliation proceedings were held by the Dy. Labour Commissioner, Margao and since amicable settlement could not be arrived at, the conciliation resulted in failure. The Union contended that the action of the employer in the matter of gradation, fitment and fixation of pay scale is illegal and unjustified. The Union claimed that the above workmen are entitled to the basic scale in the grade protecting the last drawn basic wage and proper fitment thereafter. The Union also claimed that the workmen are entitled to differences in the wage with interest at the rate of 18% per annum.

3. The employer filed written statement at Exb. 6. The employer stated that the workmen were engaged on seasonal basis and were paid their full wages for the season i. e. approximately for 4 months and were paid a retaining allowance of 30% of their wages for off season of approx. 8 months. The employer stated that there were some permanent posts of watchman and accordingly the workmen were asked by letter dated 25-11-93 to attend the interview if they were interested in the said job and pay of watchmen. The employer stated that accordingly the workmen appeared for interview and were issued appointment letter dated 30-11-93 wherein it was specifically mentioned that their basic pay would be Rs. 900/- in the scale of post of Watchman i.e. Rs. 900-15-1050-20-1250 and the workmen accepted the said appointment letter and the pay scale and reported for duty on 2-12-93. The employer stated as far as the workman Shri Haldankar is concerned he was recruited as watchman on 1-9-93 i. e. prior to the other six workmen and inadvertently he was paid basic salary of Rs. 1250/- for three months instead of Rs. 950/- and hence this mistake was

subsequently rectified. The employer denied that at the time of interview the workmen were told that their basic salary would be protected. The employer denied that there is any anomaly in fixation of grade or pay of the workmen. The employer denied that its action in the matter of fixation of grade, fitment or fixation of pay is illegal and unjustified. The employer denied that the workmen are entitled to any relief as claimed. The Union thereafter filed rejoinder at Exb. 7.

4. On the pleadings of the parties issues were framed and the case was fixed for the evidence of the union. However, before evidence was recorded the parties submitted that they desire to settle the dispute amicably and hence at the request of the parties the case was fixed on 26-4-99 at 10.30 a. m. for filing the terms of settlement. On that date the parties appeared and submitted that the dispute was amicably settled and they filed the terms of settlement dated 26-4-99 at Exb. 11. The parties also filed an application dated 26-4-99 at Exb. 12 praying that consent award be passed in terms of the said settlement. I have gone through the terms of settlement dated 26-4-99 at Exb. 11 which are duly signed by the parties and I am satisfied that the said terms are certainly in the interest of the Union/Workmen. I, therefore accept the submission made by the parties and pass the consent award in terms of the settlement dated 26-4-99 Exb. 11.

ORDER

1. It is agreed between the parties that the workers will be fitted in proper gradation, with a proper fitment benefit and pay-scales as per Annexure-A (enclosed to this settlement) with effect from the date the workmen are made to work on a permanent post. The new basic scale worked out to this watchman, the Union agreed not to create any anomaly in any other matter in watchman's grade.
2. It is agreed between the parties that the management shall pay arrears to all the eight (8) watchmen from January, 1997 to 31-12-1998 at the rate of 60% out of the total arrears payable to the workman on or before 7th April, 1999. The Union hereby agrees not to claim the balance from the management. The management shall make necessary statutory deductions.
3. It is agreed between the parties that the management shall pay the salary to the watchman from the month of January, 1999 as per new grade and scale.
4. It is agreed between the parties that in view of the above payments all these eight (8) watchmen shall have no dispute with the management of M/s Sanjivani Sahakari Sakhar Karkhana Ltd., as regards to the grade, fitment and scales.
5. Both the parties hereby agree to file this settlement before this Industrial Tribunal in Re. No. IT/40/96 and pray for a consent award to be passed in terms of the above settlement. No order as to costs. Inform the Government accordingly.

Sd/-
(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub - Awards/98/9975

The following Award dated 10-7-1998 in Reference No. IT/57/97 given by the Industrial Tribunal, Panaji - Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary (Labour).

Panaji, 30th July, 1998.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/57/97

Shri Pratap Mardolkar
and 6 Others,
H. No. 84 Alto Dabolim,
Vasco da Gama, — Workmen/Party I

V/s

M/s Goa Shipyard Limited,
Vasco da Gama, — Employer/Party II

Workmen/Party I represented by Adv. Shri C. J. Mane
Employer/Party II represented by Adv. Shri M. S.
Bandodkar.

Dated:- 10-7-98

AWARD

In exercise of the powers conferred by sub-section (2) of section 10 of the Industrial Disputes Act, 1947, the Government of Goa by order bearing No. CL/Sec-10/20/I.D./97/4666 dated 12th September, 1997 referred the following dispute for adjudication to this Tribunal.

"Whether the workmen whose names are listed in the Annexure-A hereto, are entitled for Wages for the period from 16-10-1996 to 11-12-1996 ?

If not, to what relief the said workmen are entitled ?"

2. On receipt of the reference, a case was registered under No. IT/57/97 and registered AD notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The workmen/ /party I (For short "Workmen") filed their statement of claim which is at Exb. 5. The facts of the case in brief as pleaded by the workmen are that the workmen went on strike in protest against deployment of CISF in the yard. That a group of workmen realising the mistake opposed the decision of resorting to strike and resumed work from 9-9-96 and the strike was ultimately called off on 12-12-96. That the group of workers who reported for duties on 9-9-96 were harassed by majority of the workers and were not allowed to perform their duties and this fact was communicated to the Chairman and the Managing Director of the Employer/ /Party II (For short "Employer") vide various letters. That the present reference is a joint reference of both the parties to this Tribunal to adjudicate on the matter of payment of wages for the period from 16-10-96 to 11-12-96 to those employees who were prevented from joining their duties. The workmen claimed that they are entitled to the wages for the period from 16-10-96 to 11-12-96.

2. The Employer filed Written Statement which is at Exb. 6. The employer stated that the reference is not maintainable for the reasons stated in para (1) of the written statement and therefore, the reference is liable to be rejected. The employer stated that "Shipyard Employees Union" is a recognised union and although the Union is one, there are two groups in the union opposing each other. The employer stated that all the workmen of the Company resorted to illegal and unjustified strike from 30-8-96 for purported reason of deployment to CISF in the Yard and that however, some of the workers concerned in this reference reported for work on 9-9-96 in response to the management's appeal and the rest of the workmen resumed work on 13-9-96. The employer stated that the group of workers who had joined work on 9-9-96 stopped coming to work from 16-10-96 alleging that there was fear of victimisation

from the other majority group who joined on 13-9-96. The employer stated that the Company was not in any way responsible for the workmen not joining duties from 16-10-96 to 11-12-96 and the workmen themselves were responsible for not reporting for work and therefore, they are not entitled to wages for the said period. The employer stated that even then, the management paid to the workmen a sum of Rs. 4,000/- per workmen as an advance subject to the outcome of the Award on the present joint reference before this Tribunal. The employer stated that, at no point of time the company prevented the workmen from joining duties for the relevant period. The employer denied that the workmen were willing to join the duties or that they could not attend the duties for the reasons alleged. The employer therefore stated that the reference is liable to the rejected and the claim of the workmen is liable to be dismissed. The workmen thereafter filed rejoinder which is at Exb. 7.

4. On the pleadings of the parties, issues were framed at Exb. 8 and thereafter, the case was fixed for the evidence of the workmen. On 30-4-98, when the case was fixed for hearing, Adv. Shri C. J. Mane, representing the workmen and Adv. Shri M. S. Bandodkar, representing the employer submitted that the dispute between the parties was amicably settled and they filed the terms of the settlement dated 30-4-98 duly signed by the parties at Exb. 10. They also filed an application praying that award be passed in terms of the settlement. I have gone through the terms of the settlement dated 30-4-98 Exb. 10 and I am satisfied that the said terms are certainly in the interest of the workmen. I accept the submissions made by the parties and pass the consent award in terms of the settlement dated 30-4-98 Exb. 10.

ORDER

- (a) It is agreed between the parties that all the 89 workmen who were a party in the earlier settlement dated 11-12-96 shall be paid full wages/salary from 16-10-96 to 11-12-96 as per the Annexure "A" to the settlement.
- (b) It is clearly understood and agreed between the parties that amount mentioned in Clause (a) paid by the Management to these workmen shall not create any precedent and/or used by any workmen for claiming wages for any further period for not

working at any point of time and agreed that this amount has been paid as a special case only.

- (c) It is further agreed between the parties that the amount of Rs. 4,000/- paid to them as an advance shall be adjusted against salary/wages from 16-10-96 to 11-12-96 as per the Annexure "A" to the settlement.
- (d) It is further agreed between the parties that the Company shall make deductions for the period from 16-10-96 to 11-12-96 as per the Annexure "A" to the settlement.
- (e) It is further agreed between the parties that those workmen who otherwise were on sanctioned leave/present during the period from 16-10-96 to 11-12-96 and have earned wages during the said period, the said amount shall be deducted since have been paid as per Annexure "A" to the settlement.
- (f) It is further agreed between the party that mistake in arithmetical calculation if any to the Annexure "A" shall be rectified by the Management after discussing with the representatives of the workmen.
- (g) It is agreed by all the 89 workmen that henceforth they would not be a situation disturbing the functioning of the Yard and they would do their normal work. It is also agreed by the 89 workmen that they would always strive to work for the best interest of the organisation.
- (h) It is further agreed between the parties that both the parties shall make joint application before the Hon'ble Presiding Officer, Industrial Tribunal, Government of Goa in Reference Industrial Dispute No. 57/97 for seeking award in terms of settlement to dispose the reference accordingly. It is further agreed between the parties that this settlement is in full and final satisfaction of all the demands of these workmen under the reference (15) No. 57/97 and the workmen agree that they shall not raise any dispute about the subject matter of the reference.

- 15. It is also agreed between the parties that this settlement also shall be sent to the Commissioner's Office for registration.

ANNEXURE "A"

Statement of Financial Implication in IT/57/97 case

Sr. No.	Name	Emp. Depart No.	Absent				Gross (Rs.)	Advance Paid (Rs.)	Deductions				Scooter Loan	Bank Loan	Total Deduction	Net Amount	Remarks	
			16/10 to 31/10	01/11 to 30/11	01/12 to 11/12	No. of days			PF Adv.	Fur. Int.	I.F.L.							
1	Tulshidas Kerkar	1129	F/O(H)	9	30	11	50	8287.00	4000.00	676.00						4676.00	3611.00	
2	Bharat Bhosle	1612	N/C	2	30	11	43	7262.00	4000.00	596.00						4763.00	2499.00	PL 16/10/96 to 18/10/96
3	Deepak Gawde	2496	N/C	1	30	11	42	6805.00	4000.00	514.00						4514.00	2091.00	16/10/96 & 17/10/96 1/2 day
4	Ulhas Pal	824	N/C	5	30	11	46	8807.00	4000.00	695.00	167.00					5029.00	3778.00	
5	Rajendra Ugrani	1608	F/O(H)	30	11	41	6821.00	4000.00	569.00						4736.00	2085.00	PL 16/10/96 - 19/10/96	
6	Kishore Volvoikar	900	F/O(H)	4	30	11	45	8404.00	4000.00	680.00	167.00				5014.00	3390.00		
7	Joaquim Moares	1375	F/O(H)	1	30	11	42	8382.00	4000.00	659.00	167.00				4993.00	3389.00	PL 18/10/98 - 19/10/98	
8	Catalino Pereira	786	SPS	5	30	11	48	9253.00	4000.00	734.00	167.00				5068.00	4185.00		
9	Suresh Dessai	598	Slipway	6	30	11	47	9418.00	4000.00	755.00	167.00				5089.00	4329.00		
10	Sharad Bandekar	1174	N/C	5	18	11	34	7150.00	4000.00	549.00	167.00				4716.00	2434.00		
11	Percy Rodrigues	2509	Weld N/C	11	30	11	52	7955.00	4000.00	641.00					4641.00	3314.00		
12	Luis Femandes	1909	N/C	11	30	11	52	9669.00	4000.00	784.00	167.00				5118.00	4551.00		
13	Kashinath Naik	347	Shipwright	5	30	11	46	9588.00	4000.00	748.00	175.00				5085.00	4503.00		
14	Pratap Mardolkar	2611	Canteen	7	30	11	48	7537.00	4000.00	611.00					4611.00	2926.00		
15	Shekher Mandrekar	2594	Pl. Maint.	6	30	11	47	6919.00	4000.00	554.00					4554.00	2365.00		
16	Sada Shetkar	991	N/C	5	30	11	46	9434.00	4000.00	757.00	167.00				5091.00	4343.00		
17	Balkrishna Panchal	435	Carpentry	5	30	11	46	9559.00	4000.00	746.00	167.00				4913.00	4646.00		
18	Robin D'Souza	992	N/C	11	30	11	52	12376.00	4000.00	1101.00	167.00				5435.00	6941.00		
19	Umesh Bandodkar	71	Weld. N/C	8	30	11	49	12545.00	4000.00	808.00	182.00				5157.00	7388.00		
20	Francis D'Souza	717	F/O(H)	13	30	11	54	10679.00	4000.00	813.00	167.00				5147.00	5532.00		
21	Nagesh Pereira	798	F/O(H)	7	30	11	48	9796.00	4000.00	739.00	167.00				5073.00	4723.00		
22	Laxman Naik	571	Weld. N/C	5	30	11	46	10016.00	4000.00	743.00	167.00				5077.00	4939.00		
23	Henry Fernandes	1965	N/C	9	30	10	49	9383.00	4000.00	728.00	167.00				5062.00	4321.00		
24	Satyavan Kerkar	1298	Plater Shop	4	30	11	45	8983.00	4000.00	729.00	167.00	200.00	167.00		5263.00	3720.00	CO - 18/10/96	
25	Agnelo D'Souza	1967	N/C	7	30	11	48	9383.00	4000.00	728.00	167.00				5062.00	4321.00		
26	Joaquim Andrade	691	Weld. N/C	6	30	11	47	9585.00	4000.00	750.00	167.00				5084.00	4501.00		
27	Pradeep Pirankar	2027	N/C	7	30	11	48	8644.00	4000.00	702.00	167.00	200.00	167.00		5236.00	3408.00		
28	Digambar Shirodkar	758	Machine	7	30	11	48	10032.00	4000.00	789.00	167.00				5123.00	4909.00	CL - 17/10/96 - 19/10/96 20/10-Sunday & 21/10 - RH	
29	Mohan Mapari	1169	N/C	6	30	11	47	9705.00	4000.00	773.00	167.00	200.00	167.00		5307.00	4398.00		
30	Mohan Dhargalkar	676	N/C	5	30	11	48	8850.00	4000.00	684.00	167.00				5018.00	3832.00	16/10/96 - 1/2 day	
31	Roque Antao	2396	Slipway	6	30	11	47	7240.00	4000.00	586.00					4586.00	2654.00		
32	Govind Khandeparkar	1245	N/C	4	30	11	45	7985.00	4000.00	631.00					4798.00	3187.00		
33	Anthony Fernandes	2085	Pipe Shop	9	30	11	50	8104.00	4000.00	654.00					4821.00	3283.00	16/10/96 - ½ day	
34	Namdev Naik	1514	F/O(E)	16	30	11	57	10251.00	4000.00	889.00	167.00				105.00	5161.00	5090.00	
35	S. Lokapure	1920	SPS	7	30	11	48	8256.00	4000.00	656.00		200.00	167.00		5023.00	3233.00		
36	Vincente Ferrao	1106	N/C	4	30	11	45	8995.00	4000.00	708.00	167.00				167.00	5042.00	3953.00	

229 1068 395 1692 321858.00 144000.00 25477.00 4198.00 0.00 800.00 4611.00 0.00 179086.00 142772.00

Sr.Name No.	Emp. No.	Depart ment	Absent				Advance (Rs.)	Paid (Rs.)	PF	Fur. Adv.	Fur. Int.	I.F.L.	Scooter Loan	Bank Loan	Total Deduction	Net Amount	Remarks
			16/10/01/11	01/11/12	No.	Gross to days (Rs.)											
37 Santosh Rao	1259	Plater Shop	11	30	11	52	8636.00	4000.00	727.00				167.00		4894.00	3742.00	
38 Dattaram Vargaokar	2051	N/C	6	30	11	47	8207.00	4000.00	668.00			200.00	167.00		5035.00	3172.00	
39 Soma Nanoskar	2113	Weld. N/C	6	30	11	47	8508.00	4000.00	677.00			200.00	167.00		5044.00	3484.00	
40 Joaquim Gracias	396	N/C	2	30	11	43	11109.00	4000.00	876.00				167.00		5043.00	6066.00	PL -16/10/96 - 18/10/96
41 Narayan Phadte	1167	N/C	4	30	11	45	9031.00	4000.00	705.00	167.00			167.00		5039.00	3992.00	
42 John Menezes	663	N/C	6	30	11	47	9446.00	4000.00	739.00	167.00			167.00		5073.00	4373.00	
43 Subhash Agapurkar	2360	Slipway	4	30	11	45	7164.00	4000.00	567.00						4567.00	2597.00	
44 Prakash T. Naik	1380	Electrical	0	0	3	3	566.00	4000.00	49.00	167.00		200.00	164.00		4580.00	4014.00	PL - 16/10/96 to 08/11/96
45 Shrikant Naik	72128	Accounts	4	30	11	45	8507.00	4000.00	675.00	167.00		200.00	167.00		5209.00	3298.00	
46 Chandradas Naik	1440	N/C	5	30	11	46	7719.00	4000.00	645.00			200.00	167.00		5012.00	2707.00	
47 Jose Pereira	2289	Weld. N/C	5	30	11	46	7564.00	4000.00	602.00			200.00			4802.00	2762.00	
48 Bhiku Shirodkar	840	F/O(H)	5	30	11	46	8041.00	4000.00	638.00				167.00		4805.00	3236.00	17/10/96 - 1/2 day
49 Roque Fernandes	2443	PH(West)	4	30	11	45	7139.00	4000.00	561.00			200.00			4761.00	2378.00	
50 Umesh Vadkar	678	Pipe Shop	5	30	11	46	9062.00	4000.00	709.00				164.00		4873.00	4189.00	
51 Luis Coutinho	2220	N/C	16	30	11	57	7171.00	4000.00	743.00				167.00		4910.00	2261.00	
52 Anthony Silva	2117	Pipe Shop	7	30	11	48	7840.00	4000.00	628.00			200.00	167.00		4995.00	2845.00	Paid 19/10-20/10/96(Sunday)
53 Ankush Bagkar	1166	SPS	9	30	9	48	9567.00	4000.00	754.00	167.00			167.00		5088.00	4479.00	
54 Rosario Perira	777	F/O(H)	1	30	11	42	9838.00	4000.00	798.00			370	167.00		5335.00	4503.00	
55 Datta Naik	1130	Mechanical	9	30	11	50	8556.00	4000.00	699.00				167.00		4866.00	3690.00	
56 Damu Kudalkar	908	N/C	3	30	11	44	7949.00	4000.00	617.00			200.00	167.00		4984.00	2965.00	
57 Edwin Pereira	2494	Weld. N/C	16	30	11	57	9064.00	4000.00	748.00						4748.00	4316.00	
58 Nitin Nabar	1873	PH(East)	9	30	11	50	9262.00	4000.00	769.00	167.00		200.00	167.00		5303.00	3959.00	
59 Bernard D'Souza	727	F/O(H)	15	30	11	56	9468.00	4000.00	750.00			200.00	167.00		5117.00	4351.00	
60 Roy Barretto	1594	N/C	0	30	11	41	6914.00	4000.00	569.00				167.00		4736.00	2178.00	PL - 16/10/96 - 26/10/96
61 Julio Pimento	904	F/O(H)	5	30	11	46	7821.00	4000.00	645.00				167.00		4812.00	3009.00	
62 Henrique Alfonso	2585	Canteen	12	30	11	53	7670.00	4000.00	623.00						4623.00	3047.00	
63 Ramesh Kerkar	942	F/O(H)	4	25	11	40	8152.00	4000.00	658.00			200.00			4858.00	3294.00	CL - 21/10, 28/10 & 29/10/96 RH-11/11/ & 12/11
64 Damodar Kalangutkar	903	F/O(H)	7	30	11	48	9215.00	4000.00	717.00	167.00		200.00	167.00		5251.00	3964.00	22/10/96 - 1/2 day, 23/10/96
65 John Fernandes	785	Weld. N/C	16	30	11	57	11186.00	4000.00	868.00						4868.00	6318.00	
66 Damodar Sangelkar	1034	Mechanical	13	30	11	54	9143.00	4000.00	747.00				167.00		4914.00	4229.00	
67 Chandrakant Kavlekar	673	Plater Shop	5	30	11	46	9518.00	4000.00	734.00	167.00			167.00		5068.00	4450.00	
68 Anant Asolkar	1427	Mechanical	11	30	11	52	8390.00	4000.00	713.00			200.00	167.00		5080.00	3310.00	16/10&17/10/96-1/2 day each
69 Balkrishna Dhargalkar	1442	N/C	11	30	11	52	8489.00	4000.00	703.00	167.00				220	5090.00	3399.00	
70 Uttam Raut	2078	N/C	3	30	7	40	6750.00	4000.00	531.00				167.00		4698.00	2052.00	16/10 & 17/10/96-1/2 day each 21/10-23/10/96-Sickleave
71 Tukaram Naik	1901	PH(East)	3	30	11	44	7546.00	4000.00	602.00				167.00		4769.00	2777.00	17/10 & 18/10/96-1/2 day each
72 P.K. Maitra	2303	Pipe Shop	16	30	11	57	8782.00	4000.00	723.00						4723.00	4059.00	

Sr. No.	Name	Emp. No.	Depart ment	Absent								Deductions							Remarks
				16/10 31/10	01/11 30/11	01/12 11/12	No. of days	Gross (Rs.)	Advance (Rs.)	Paid	PF	Fur. Adv.	Fur. Int.	I.F.L.	Scooter Loan	Bank Loan	Total	Net Deduction Amount	
73	Satish Walwaikar	1057	Time Office	1	30	11	42	8766.00	4000.00	711.00	167.00				167.00	5045.00	3721.00	C.O.Off.On 19.10.96 to 21.10.96;PL-22.10.96 to 26.10.96	
74	Vilas Rao	1602	F/O(H)	16	30	11	57	8979.00	4000.00	760.00				200.00	167.00	5127.00	3852.00		
75	Mahesh Khedekar	1818	M/Shop	5	30	11	46	7974.00	4000.00	681.00	167.00			200.00	167.00	5215.00	2759.00	PL-16.10.96 to 18	
76	Premanand Mulvi	1646	M/Shop	5	30	9	44	7755.00	4000.00	655.00	167.00			167.00		4989.00	2766.00		
77	Vishwananth Naik	1031	N/C	8	30	11	49	8471.00	4000.00	686.00				167.00		4853.00	3618.00		
78	Vincent Vales	199	N/C Weld.	7	30	11	48	12545.00	4000.00	975.00	167.00			167.00		5309.00	7236.00		
79	Bharat Matonkar	1249	F/O(H)	15	30	11	56	9022.00	4000.00	749.00				167.00		4916.00	4106.00		
80	Sebastiao Rebello	1181	Mech.	16	30	11	57	11393.00	4000.00	906.00				167.00		5073.00	6320.00		
81	Ratnakar Satardekar	1970	N/C	0	30	11	41	8170.00	4000.00	624.00	167.00			200.00	167.00	5158.00	3012.00	PL-16.10.96 to 26.10.96	
82	Lawrence D'Costa	566	N/C	4	30	11	45	8994.00	4000.00	716.00	167.00					4883.00	4111.00		
83	Hilary D'Souza	1978	N/C	9	30	11	50	9643.00	4000.00	750.00	167.00			200.00	167.00	5284.00	4359.00		
84	Santosh Narvekar	2107	F/O(E)	1	30	7	38	6269.00	4000.00	499.00						4499.00	1770.00	PL-16.10.96 to 19/ /20.10.96 (Sunday)	
85	Pradeep Korgaonkar	2087	S/Wright	9	30	11	50	8370.00	4000.00	678.00				200.00	167.00	5045.00	3325.00	C.Off 17.10.96 & 18.10.96	
86	Bruno Osario	949	Plant Maint.	13	30	10	53	9227.00	4000.00	741.00						4741.00	4486.00		
87	Manuel Vaz	386	N/C	4	30	11	45	11575.00	4000.00	916.00	167.00				167.00	5250.00	6325.00		
88	Gurudas Chodankar	2451	PH(E)	8	30	11	49	7574.00	4000.00	604.00						4604.00	2970.00	Present - 1/2 day 17.10.96	
89	Ashok Ghag	70621	Accounts	1	30	1	32	7643.00	4000.00	576.00					167.00	4743.00	2900.00	CL-16.10.96 to 18.10.96 Present on 19.10.96	
				122	510	170		152370.00	68000.00							84734.00	67636.00		
GRAND TOTAL				609	2623	947		775215.00	356000.00							441146.00	334071		

No order as to costs.

Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub - Awards/98/3067

The following Award dated 19-3-1998 in reference No. IT/41/92 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary (Labour).

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/41/92

Workmen

Rep. by Gomantak Mazdoor
Sangh,
Ponda-Goa.

— Workmen/Party I

V/s

M/s New Punjab Bar 'N'
Restaurant, Opp. Municipal
Garden,
Panaji-Goa.

— Employer Party II

Party I/Workmen represented by Shri P. Gaonkar.

Party II/Employer represented by Adv. Shri C. J. Mane.

Panaji, dated 19-3-1999

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order bearing No. 28/25/92-LAB dated 27-7-1992 referred the following dispute for adjudication by this Tribunal.

(1) "Whether the following demands served on the management of M/s New Punjab Bar 'N' Restaurant, Panaji, by Gomantak Majdoor Sangh on behalf of their workmen, are legal and justified?

DEMANDS

Demand No. 1: *Scale of Pay*:

It is demanded that the following scales of pay and grades be introduced after assessing the work of each workman as per the designation and work input.

- (1) Skilled: — 750-40-950-45-1200-50-1450
- (2) Semi - Skilled: — 650-35-825-40-1025-45-1250
- (3) Unskilled: — 500-30-650-35-825-40-1025

Demand No. 2: *Variable Dearness Allowance*:

The Union States that due to the heavy increase in the rate of the essential commodities, it is very difficult, to maintain the expenditure of the families and in order to mitigate the said increase to some extent, the Union demands that V. D. A. should be paid at the rate of Rs. 1.65 per point (1960-100) above 850 points.

Demand No. 3: *Fixed Dearness Allowance*:

Union demands that all the workers shall be paid fixed dearness allowances at the rate of Rs. 150/- per month per workman.

Demand No. 4: *House Rent Allowance*:

As in Goa it is very difficult to get the rented houses, the union demands that till such time as the company provides housing facilities, House Rent Allowances should be paid at the rate of 20% of basic salary.

Demand No. 5: *Uniforms*:

Union demands that three sets of Uniforms should be supplied every year to all the workmen.

Demand No. 6: *Washing Allowance*:

Union demands that all the workmen should be paid a washing allowance at the rate of Rs. 25/- per month per workman.

Demand No. 7: *Leave*:

(a) *Casual Leave*: Union demands that all the workmen shall be granted 15 days casual leave per year.

(b) *Sick Leave*: Union states that since E.S.I.C. is not sanctioning sick leave for waiting period hence 15 days sick leave per year should be granted to all the workmen.

(e) *Earned Leave*: Union demands that all the workmen who have completed more than 240 days shall be granted 30 days earned leave per year

Demand No. 8: *Transport Allowances*:

Union demands that all the workmen shall be paid transport allowances at the rate of Rs. 52/- per month.

29TH JUNE, 2001

Demand No. 9: Bonus and Ex-Gratia:

Union demand that during the currency of this settlement all the workers should be paid 20% Bonus.

(2) If so, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/4192 and registered A/D notice was issued to the parties. In pursuance to the said notice the Workmen/Party I (for short, "Union") filed statement of claim at Exb. 3 in support of the charter of demands raised by the Union against the Employer-Party II (for short, "Employer"). The Union contended that the demands are legal and justified. The Employer filed the written statement at Exb. 7. The employer raised the objection that the Union is not entitled to espouse the dispute on behalf of the workmen as the workers of the employer are not the members of the said union. The employer stated that the demands raised by the union on behalf of the workmen are not legal and justified and the employer is not financially capable to meet the demands of the union. The employer stated that if the demands of the Union are granted it would lead to closing of the establishment of the employer. The Union thereafter filed rejoinder.

3. On the pleadings of the parties, issues were framed at Exb. 8 and thereafter the case was fixed for the evidence of employer. On 10-2-99 when the case was fixed for hearing the parties submitted that the dispute between them in Ref. No. IT/26/93 which was as regards the termination of services of the workmen of the employer was settled in terms of the settlement dated 4-2-99. The Union submitted that in view of the said settlement, the Union does not press for their demands which is the subject matter of the present reference. The Union filed application dated 10-2-99 praying that no dispute award be passed since the union does not want to press for their demands. The Employer-Party II gave no objection for the passing of the no dispute award.

4. The demands were raised by the Union and the reference was made by the Government at the instance of the Union. Now, since according to the Union the dispute between them and the employer is amicably settled and the union does not want to press for the demands the dispute does not exist and consequently the reference does not survive.

In the circumstances, I pass the following order.

ORDER

It is hereby held that the reference does not survive since the dispute does not exist.

No order as to costs. Inform the Government accordingly.

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

ORDER

CL/Pwb-Awards/98/3068

The following Award dated 24-3-1999 in Reference No. IT/80/98 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-officio Joint Secretary (Labour).

Panaji, 21st June, 1999.

**IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI**

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/80/98

Shri Philip Gomes,
Rep. by KTC Drivers & Allied
Employees Association,
Panaji-Goa.

— Workmen/Party I

V/s

M/s Kadamba Transport
Corporation Ltd.,
Panaji-Goa.

— Employer/Party II

Workman/Party I represented by Adv. Shri A. Kundaikar.

Employer/Party II represented by Shri A. S. Shirvoikar.

Panaji, dated: 24-3-1999.

AWARD

In exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (Central Act 1947) the Government of Goa by order dated 24th August, 1998 bearing No. IRN/CON/(4)/97/10393 referred the following dispute for adjudication by this Tribunal.

(1) Whether the action of the Kadamba Transport Corporation Limited, Panaji-Goa, in imposing punishment of stoppage of one annual increment for the year 1997, on Shri Philip Gomes, Assistant Auto Mechanic, is legal and justified?

(2) If not, to what relief workman is entitled?"

2. On receipt of the said reference a case was registered under No. IT/80/98 and registered A/D notice was issued to the parties. In pursuance to the said notice, the parties put in their appearance. The

Workman/Party I (for short, "workman") filed his statement of claim at Exb. 3. The facts of the case in brief as pleaded by the workman are that he is working as Asst. Auto Mechanic with the Employer-Party II (for Short, "Employer"). That the employer issued a charge sheet dated 14-6-94 to him alleging certain acts of misconducts and pursuant to the said charge sheet he was placed under suspension. That the enquiry was conducted into the said charge sheet, and by findings dated 6-5-96 the Inquiry Officer held that the employer could not establish the charges against the workman by sufficient evidence. That on receipt of the findings of the Inquiry Officer the General Manager of the Employer passed the order dated 27-8-96 in which he observed that the charges levelled against the workman were partly proved. That by the said order the employer imposed the punishment on the workman with-holding one annual increment for the year 1997. The workman contended that the order imposing punishment on him is illegal and unjustified.

3. After the statement of claim was filed by the workman the case was fixed for filing written statement by the employer. However, before the written statement was filed the parties submitted that the dispute was settled and subsequently the workman filed an application dated 16-3-99 stating that by order dated 6-2-99 the employer has released the annual increment of the workman for the year 1997. The workman prayed that no dispute award be passed as the dispute does not survive. The employer agreed with the application filed by the workman and gave no objection for passing no dispute award. Since as per the workman himself his annual increment for the year 1997 has been released by the Employer, the dispute does not exist and consequently the reference does not survive. In the circumstances, I pass the following order.

ORDER

It is hereby held that the reference does not survive since the dispute does not exist in view of releasing of annual increment for the year 1997 by the Employer M/s Kadamba Transport Corporation Limited, Panaji-Goa.

No order as to costs. Inform the Government accordingly.

Sd/-
(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/3069

The following Award dated 27-5-1999 in Reference No. IT/12/99 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the

provisions of Section 17 of the Undustrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-officio Joint Secretaty (Labour).

Panaji, 22nd June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/12/99

Shri Cruz Dias,
House No. 120, Nagmodem,
Navelim-Goa.

— Workmen/Party I

V/s
M/s Royal Goan Beach
Resorts Pvt. Ltd.,
Benaulim-Goa.

— Employer/Party II

Workman/Party I — Absent.

Employer/Party II represented by Adv. Shri B. G. Kamat.

Dated: 27-5-99.

AWARD

In exercise of the powers conferred by clause (d) of Sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Government of Goa, by order dated 2nd February 1999, bearing No. IRM/COM/SG/(31)/98/614 referred the following dispute for adjudication by this Tribunal.

"(1) Whether the action of the management of M/s Royal Goan Beach Resorts Pvt. Ltd., Benaulim, in refusing employment to Shri Cruz Dias, Assistant Steward, w.e.f. 14-6-1998 on expiry of probationary period, is legal and justified?

(2) If not, to what relief the workman is entitled?"

2. On receipt of the notice, a case was registered under No. IT/12/99 and registered A/D notice was issued to the parties requiring them attend the hearing fixed on 17-3-99. Though the registered A/D notice was received by the Workman/Party I (for short, "Workman") as well as by the employer/Party II (for short, "employer") they remained absent and hence the case was adjourned to 6-4-99 at 10.30 a. m. On this date the workman again remained absent but the employer was represented by Adv. Shri B. G. Kamat. Since none appeared on behalf of the Workman, no statement of claim was filed on his behalf. The case

was then adjourned to 13-4-99 at 10.30 a. m. On this date Adv. B. G. Kamat, representing the employer submitted that the employer did not wish to file any statement of claim/written statement in the matter. He submitted that the burden was on the workman to prove that the employment was refused to him by the Employer and that the same is illegal and unjustified. He submitted that since no Statement of claim has been filed by the workman and since there is no evidence to prove that the employment was refused to him by the employer the reference cannot be answered in favour of the workman.

3. In the present case, the workman was given an opportunity to file his statement of claim in support of his contention that the refusal of employment to him is illegal and unjustified. Inspite of the opportunity given, the workman did not file any statement of claim. The reference of the dispute was made by the Government at the instance of the workman as he challenged the action of the employer of refusing employment to him w. e. f. 14-6-98 and as such, he raised an industrial dispute. The Bombay High Court, Panaji Bench, in the case of V. N. S. Engineering Services v/s Industrial Tribunal, Goa Daman and Diu and another, reported in FJR Vol. 71 at page 393 has held that the general rule is that he who approaches a Court for a relief has to prove his case, the test being that he who does not lead evidence must fail and there is nothing in the I. D. Act, 1947 which indicates a departure from the general rule. The High Court further held that rule 10-B of the I. D. Act, (Central) Rules, 1947 which requires the party raising a dispute to file his statement of demands relating only to the issue in the order of reference for adjudication within 15 days from the receipt of the order of the reference and forward copies to the Oposite parties involved, clearly indicates that the party who raised the industrial dispute is bound to prove the contentions raised by him and an Industrial Tribunal or the Labour court would be erring in placing the burden of proof on the other party to the dispute. In another case, i.e. in the case of V. K. Raj Industries v/s Labour Court (I) and others, reported in 1981(29) FLR, 194 the Allahabad High Court has held that the proceedings before the Industrial Court are judicial in nature even though the Indian Evidence Act is not applicable to the proceedings before the Industrial Court, but the principals underlying the said Act are applicable. The High Court held that it is well settled that if the party challenges the validity of an order and if no evidence is produced, the party invoking the jurisdiction must fail. The High Court further held that if the workman fails to appear or to file written statement or produce evidence, the dispute referred by the Government cannot be answered in favour of the workman and he will not be entitled to any relief.

4. In the present case, the workman though duly served with the notice did not appear and also did not file any statement of claim. Therefore, there is no material before me to hold that the action of the Employer in refusing employment to the workman on the expiry of probationary period is not legal and justified. Applying the law laid down by the Bombay High Court, in the case of V. N. S. Engineering Services (supra) and by the Allahabad High Court in the case

of V. K. Raj Industries (Supra), the dispute referred by the Government cannot be answered in favour of the workman and consequently, he is not entitled to any relief. I therefore, hold that the workman has failed to prove that the action of the employer in refusing employment to him on the expiry of probation period is illegal and unjustified. It has to be held that the action is legal and justified.

In the circumstances, I pass the following order:

ORDER

It is hereby held that the action of the management of M/s Royal Goan Beach Resorts Pvt. Ltd., Benaulim, in refusing employment to the workman Shri Cruz Dias, Asst. Steward, with effect from 14-6-1998, on the expiry of the probationary period is legal and justified. It is hereby further held that the workman Shri Cruz Dias is not entitled to any relief.

No order as to costs. Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awads/98/3070

The following Award dated 1-4-1999 in Reference No. IT/2/89 given by the Industrial Tribunal, Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-officio Joint Secretary (Labour).

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL GOVERNMENT OF GOA AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/2/89

Shri Kashiram Sawant,
Odxell,
Taleigao, Ilhas-Goa.

— Workman/Party I

V/s

M/s Agencia E. Sequeira,
Panaji-Goa.

— Employer/Party II

Workman/Party I represented by Adv. Shri A. Nigalye.
Employer/Party II represented by the Partner Mrs. Maria Margarida de Sequeira Fernandes.

Panaji, dated: 1-4-1999

AWARD

In exercise of the powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order dated 9th January 1989 bearing No. 28/48/88-ILD referred the following dispute for adjudication by this Tribunal.

"whether the action of the management of M/s Agencia E. Sequeira, Campal, Panaji, in terminating the services of Shri Kashira M. Sawant, Helper, with effect from 26-10-1987 is legal and justified?

If not, what relief the workman is entitled to?"

2. On receipt of the reference a case was registered under No. IT/2/89 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The Workman/Party I (for short, "workman") filed his statement of claim which is at Exb. 2. The facts of the case in brief as pleaded by the workman are that he was employed with the employer-Party II (for short, "Employer") as a helper in or about the year 1980 and was posted for sometime at the store house at Old Goa and thereafter he started working at the Head Office of the employer at Panaji as a helper. That he received a letter dated 26-10-87 informing him that his services were terminated with immediate effect for loss of confidence and he was offered one month's wages in lieu of notice and gratuity along with the said letter. That the employer did not give any reason for losing confidence in him nor he was given any opportunity to show cause against the proposed action of terminating the services on the ground of loss of confidence. That by letter dated 22-12-87 the workman informed the employer that termination of his service is illegal and unjustified and demanded reinstatement in service with full back wages. That since the employer did not meet the demands made by him he sought the intervention of the Asst. Labour Commissioner, Panaji, in the dispute. That the Asst. Labour Commissioner held conciliation proceedings and in the said proceedings the employer for the first time made certain allegations imputing his moral character. The workman contended that the allegations made against him are totally false and baseless and had no relation whatsoever with his employment with the employer. The workman contended that termination of his service is illegal and unjustified and he is liable to be reinstated with full back wages.

3. The employer filed written statement which is at Exb. 3. The employer stated that the workman was responsible for attempting to lure the minor daughter of the fellow employee into the easy life and the said minor daughter was employed at the residence of Shri Erasmo Sequira, Partner of the employer-firm. The employer stated that the act on the part of the

workman was heinous and mean and therefore the employer lost confidence in the workman and as such rightly and justly terminated his services. The employer stated that show cause notice was not given to the workman as the same was not required under the law nor it was justified. The employer denied that the termination of service of the workman is illegal and unjustified. The employer denied that the workman is entitled to any relief and claimed by him. The workman thereafter filed rejoinder which is at Exb. 4.

4. On the pleadings of the parties, issues were framed at Exb. 5 and thereafter the evidence of the workman was recorded. After the evidence of the employer was partly recorded the parties submitted that they desire to arrive at a amicable settlement and accordingly the case was fixed on 19-3-99 for filing the terms of the settlement. On the said date the workman along with his Advocate Shri Nigalye, remained present and Mrs. Maria Margarida de Sequeira Fernandes remained present on behalf of the employer. They submitted that the dispute was amicably settled and filed the terms of settlement dated 19-3-99 at Exb. 18. The parties prayed that award be passed in terms of the said settlement. I have gone through the terms of the settlement and I am satisfied that the said terms are certainly in the interest of the workman. I accept the submissions made by the parties and pass the consent award in terms of settlement dated 19-3-99 at Exb. 18.

ORDER

1. Party II hereby agrees to pay to Party I and Party I agree to accept from Party II a sum of Rs. 30,000/- (Rupees thirty thousand only) in full and final settlement of all claims and demands of Party I in Ref. No. IT/2/89.
2. The aforesaid sum of Rs. 30,000/- is paid by Party II to Party I today in cash. The receipt whereof Party I hereby accepts and acknowledge.
3. Party I hereby states that in view of the aforesaid Payment, his dispute with Party II is conclusively settled and that he has no claim or demand against Party II of any nature whatsoever.
4. The parties agree to file these consent terms in the Hon'ble Industrial Tribunal in Ref. IT/2/89 with a request to pass a Consent Award in terms thereof.

No order as to cost. Inform the Government accordingly.

Sd/-
(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.

Order

No. CL/Pub-Awards/98/3071

The following Award dated 19-3-1999 in Reference No. IT/26/1993 given by the Industrial Tribunal,

Panaji-Goa, is hereby published as required under the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

R. S. Mardolker, Ex-Officio Joint Secretary (Labour).

Panaji, 21st June, 1999.

IN THE INDUSTRIAL TRIBUNAL
GOVERNMENT OF GOA
AT PANAJI

(Before Shri Ajit J. Agni, Hon'ble Presiding Officer)

Ref. No. IT/26/93

Workman

Rep. by Gomantak Mazdoor
Sangh,
Kamakshi Krupa Ground,
Khadapa Band,
Ponda-Goa.

— Workman/Party I

V/s

M/s New Punjab Bar N

Restaurant,
Opp. Municipal Garden,
Panaji-Goa.

— Employer/Party II

Party I/represented by Shri P. Gaonkar.

Employer/Party II represented by Adv. Shri C. J. Mane.

Panaji, dated: 19-3-1999.

AWARD

In exercise of the powers conferred by clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) the Government of Goa by order bearing No. 28/1/93-LAB dated 29-3-93 referred the following dispute for adjudication by this Tribunal.

(1) "Whether the action of the management of M/s New Punjab Bar 'N' Restaurant, Panaji, Goa, in terminating the services of the following 15 workmen with effect from 13-4-1992 is legal and justified?

1. Shri Gopal Aiyer	8. Shri Ramesh V. Aiyer
2. Shri Babi Paryerkar	9. Shri Eknath Aiyer
3. Shri Nitin Bondre	10. Shri Vilas Gawas
4. Shri Morgesh Naik	11. Shri Digamber Gawas
5. Shri Babu Gosavi	12. Shri Rati Kadam
6. Shri Santosh Gawas	13. Shri Umesh Naik
7. Shri Ankush Kocharekar	14. Shri Arjun Parab
	15. Shri Ramesh D. Aiyer

If not, to what relief the workmen are entitled?"

2. On receipt of the reference a case was registered under No. IT/26/93 and registered A/D notice was issued to the parties. In pursuance to the said notice the parties put in their appearance. The workman/Party I (for short, "Union") filed statement of claim which is at Exb. 5. The facts of the case in brief as pleaded by the Union are that the establishment of the Employer/Party II (for short, "Employer") is situated at Panaji, Opp. Municipal Garden and it is an industry within the meaning of Industrial Disputes Act, 1947. That on behalf of the workmen of the employer the union submitted charter of demands dated 3-6-91 to the employer and since there was no settlement on the said demands the union gave strike notice and thereafter the workers went on legal strike w.e.f. 8-2-92. That on 10-4-94 the workmen voluntarily resolved to withdraw the strike since the Government decided to refer the matter to the Industrial Tribunal for adjudication and accordingly the strike was withdrawn w.e.f. 13-4-94. That on 13-4-94 the workers went to report for work but the employer refused to allow them to resume their duties. That at the time of termination of services of the workmen who are named in the present reference, the employer did not pay or offer to pay the legal dues nor any enquiry was conducted by the employer. The Union contended that the termination of service of the 15 workmen who are named in the present reference, is illegal, unjustified and bad in law. The union therefore prayed that the employer be directed to reinstate the workmen with full wages and other consequential benefits.

3. The employer filed written statement which is at Exb. 6. The employer raised the objection that the union had no authority to espouse the dispute on behalf of the workmen as they were not the members of the said union. The employer stated that the union did not serve any charter of demands on the employer but surprisingly through letter dated 28-9-91 threatened to go on strike from 14-1-91. The employer stated that it had made clear through the union that due to the financial inability the employer was not in a position to meet the demand of the union. The employer stated that due to resorting to illegal and unjustifiable strike by the workmen and abandoning of their work, it necessitated the employer to strike off the names of the workers from the muster roll to keep the Restaurant going. The employer stated that the workmen voluntarily abandoned their work w.e.f. 8-2-92 and they were never prevented from resuming their duties. The employer stated that it was the unilateral, arbitrary and unjustified decision of the workmen to abandon their work. The employer therefore denied that the workmen are entitled to any relief as claimed by the union. The union thereafter filed rejoinder which is at Exb. 8.

4. On the pleadings of the parties issues were framed at Exb. 10 and thereafter the case was fixed for the evidence of the union. After the evidence of the union was partly recorded the parties submitted that they want to settle the dispute amicably and accordingly on 10-2-99 when the case was fixed for hearing the parties appeared and filed the memorandum of settlement dated 4-2-99 duly signed by the parties. The parties also filed an application praying that award be passed in terms of the settlement dated 4-2-99. I have gone through the terms of the settlement filed at Exb.

18 and I am satisfied that the said terms are certainly in the interest of the workmen. I, therefore accept the submissions made by the parties and pass the consent award in terms of the settlement dated 4-2-99 Exb. 18.

ORDER

1. It is agreed by and between the parties that all the workmen shall be paid by the employer their dues as per Annexure 'A' in full and final settlement of all his/their claims and demand against M/s New Punjab Bar and Restaurant, Panaji - Goa.
2. It is agreed by and between the parties that an amount equivalent to 10% of the money payable to all the workmen as stated herebefore in clause No. 1 of these terms of settlement shall be deducted from the dues payable to the said workmen and the said deducted amount shall be paid to Gomantak Mazdoor Sangh as his contribution to the Union within one week.
3. It is agreed between the parties that the legal dues mentioned above in clause No. 1 shall be paid to the individual workman on the day upon submitting to the employer a declaration that the terms of settlement are acceptable and binding on him.
4. The parties hereby agree that in view of these terms of settlement, the dispute between all the workmen and the employer of M/s New Punjab Bar and Restaurant in Ref. No. IT/41/92 and IT/26/93 is conclusively settled and the workmen and the union shall have no claims/demands of whatsoever nature against the employer in relation to his employment or any other matter.
5. The parties hereby agree that in view of the terms of this settlement, the employer shall have no claim of whatsoever nature against the employees.

6. The parties agree to file this settlement before the Hon'ble Industrial Tribunal, Government of Goa, in Ref. No. IT/26/93 with a request to pass an Award in the terms thereof.

ANNEXURE 'A'

Sr. No.	Name of the parties	Amount payable as per the terms of settlement
1.	Gopal Iyyar	Rs. 40,000.00
2.	Babu Gosavi	Rs. 15,500.00
3.	Babi Priyekar	Rs. 13,000.00
4.	Murgesh Naik	Rs. 10,500.00
5.	Santosh Gawas	Rs. 10,000.00
6.	Nitin Bondre	Rs. 11,000.00
7.	Ankush Kochrekar	Rs. 12,500.00
8.	Ramesh V. Iyyar	Rs. 10,000.00
9.	Eknath Iyyar	Rs. 09,000.00
10.	Vilas Gawas	Rs. 05,000.00
11.	Digambar Gawas	Rs. 04,500.00
12.	Fati Kadam	Rs. 04,000.00
13.	Umesh Naik	Rs. 04,000.00
14.	Arjun Parab	Rs. 05,000.00
15.	Ramesh Iyyar	Rs. 10,000.00
Total		Rs. 1,64,000.00

No order as to cost. Inform the Government accordingly.

Sd/-

(AJIT J. AGNI),
Presiding Officer,
Industrial Tribunal.